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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,696	06/12/2001	Peter Stanley Rowe	VOSS-001	1010

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EXAMINER

MARTINELL, JAMES

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,696

Applicant(s)

ROWE, PETER STANLEY

Examiner

James Martinell

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-59 is/are pending in the application.
- 4a) Of the above claim(s) 47-51 and 57-59 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 and 43-46 is/are allowed.
- 6) ☒ Claim(s) 42 and 52-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Newly submitted claims 47-51 and 57-59 are directed to an invention that lacks unity with the invention originally claimed for the following reasons: The polypeptides and compositions containing polypeptides (claims 41-46 and 52-56) are materially different from the antibodies and compositions containing antibodies (claims 47-51 and 57-59). Thus, the two groups do not relate to a single general inventive concept and they lack the same or a corresponding special technical feature.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-51 and 57-59 are withdrawn from consideration as being directed to a nonelected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant has indicated (response filed October 24, 2003, page 11) that an Information Disclosure Statement was filed July 30, 2001. A copy of the only form PTO 1449 in the USPTO file is attached to this Office action.

The disclosure is objected to because of the following informalities. The instant application does not comply with the Sequence Rules (37 CFR §§ 1.821-1.825). See MPEP 2420-2435. Sequences without identifying SEQ ID NOs (see 37 CFR § 1.821(d) and MPEP 2422) appear at:

- (a) page 78, lines 10, 14, 16, and 24.

Appropriate correction is required.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 42 and 52-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- (a) The recitation of "regulating" (claims 42 and 52) is vague and indefinite because the term is not defined in the application.

Claims 41 and 43-46 are allowable over the prior art of record.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (703) 308-0296. The fax phone number for Examiner Martinell's desktop workstation is (703) 746-5162. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (703) 305-4028.


PLEASE NOTE THE NEW FAX NUMBER

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

AFTER ABOUT JANUARY 12, 2004 USPTO OFFICES WILL BE MOVED

Offices of the USPTO will soon be moved. After the date in the header to this section Examiner Martinell may be reached at (571) 272-0719 and the fax phone number for his desktop workstation will be (571) 273-0719. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-0722.


James Martinell, Ph.D.
Primary Examiner
Art Unit 1631